

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) Cause No. 1:22-cr-0048-TWP-DML
)
DANIEL WILLIAM JOHNSON,) - 01
)
Defendant.)

REPORT AND RECOMMENDATION

On June 2, 2022, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on April 1, 2022. Defendant Johnson appeared in person with his appointed counsel Michael Donahoe. The government appeared by Jeremy Fugate, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Travis Buehrer.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Johnson of his rights and ensured he had a copy of the Petition. Defendant Johnson orally waived his right to a preliminary hearing.
2. After being placed under oath, Defendant Johnson admitted violation number 1 as set forth in the Petition. [Docket No. 5.] Government orally moved to withdraw the remaining violations, which motion was granted by the Court; violation numbers 2 and 3 were dismissed.
3. The allegation to which Defendant admitted, as fully set forth in the Petition, is:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1	<p>"The defendant shall refrain from the unlawful use of a controlled substance."</p> <p>On March 4, 2022, Mr. Johnson submitted a urine sample that tested positive for amphetamine and methamphetamine. On March 30, 2022, he submitted a urine sample that tested positive for methamphetamine and fentanyl. When confronted with these results, he admitted to methamphetamine use within the week prior to each test.</p>

4. The Court finds that:

- (a) The highest grade of violation is a Grade B violation.
- (b) Defendant's criminal history category is IV.
- (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 12 to 18 months' imprisonment.

5. The parties jointly recommended a modification of Defendant's conditions of supervised release to include a period of placement at the Volunteers of America residential reentry center, a period of home detention with electronic monitoring, and imposition of a search and seizure requirement.

The Magistrate Judge, having considered the factors set forth in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the condition set forth in violation number 1 of the Petition, and recommends that the conditions of Defendant's supervised release be MODIFIED as follows:

1. Defendant shall reside in a residential reentry center for a term of 120 days. Defendant shall abide by the rules and regulations of the facility.
2. Following the conclusion of your placement at the residential reentry center as set forth above, you shall be monitored by electronic monitoring [Radio Frequency, GPS Monitoring, Voice Recognition] at the discretion of the probation officer for a period of 120 days, to commence as soon as practical following your release from the residential reentry center, and shall abide by all the technology requirements. During that 120-day period, you shall be restricted to your residence at all times except for employment,

education, religious services, medical, substance abuse or mental health treatment, attorney visits, court-ordered obligations, or other activities as pre-approved by the probation officer.

3. You shall submit to the search by the probation officer of your person, vehicle, office/business, residence, and property, including any computer systems and hardware or software systems, electronic devices, telephones, and Internet-enabled devices, including the data contained in any such items, whenever the probation officer has a reasonable suspicion that a violation of a condition of supervision or other unlawful conduct may have occurred or be underway involving you and that the area(s) to be searched may contain evidence of such violation or conduct. Other law enforcement may assist as necessary. You shall submit to the seizure of contraband found by the probation officer. You shall warn other occupants these locations may be subject to searches.
4. All other conditions of supervised release remain in effect.

The court read each additional condition of supervised release on the record and defendant stated he understood each additional condition. Defendant will remain in custody until designated to the Volunteers of America.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties have waived, in writing [*see* Dkts. 15 & 16], the fourteen day period in which to file objections to this Report and Recommendation with the District Judge.

Dated: 3 JUN 2022



Mark J. Dinsmore
United States Magistrate Judge
Southern District of Indiana

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